

HOUSE BILL No. 1038

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-9-2; IC 31-19.

Synopsis: Release of pre-adoptive sibling information. Repeals and relocates language concerning requests for information about pre-adoptive siblings. Allows requests for and requires, under certain circumstances, release of information concerning pre-adoptive siblings for any adoption. (Current law allows requests for and requires, under certain circumstances, release of information only for adoptions that are filed after December 31, 1993.)

Effective: July 1, 2010.

Herrell

January 5, 2010, read first time and referred to Committee on Public Policy.

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Second Regular Session 116th General Assembly (2010)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

HOUSE BILL No. 1038

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 31-9-2-93, AS AMENDED BY P.L.58-2009,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2010]: Sec. 93. "Pre-adoptive sibling", for purposes of:

4 (1) IC 31-19-18;

5 (2) IC 31-19-16.5; and

6 ~~(3) IC 31-19-25;~~

7 **(3) IC 31-19-25.5;**

8 means a person who would have been a sibling of an adoptee had the
9 adoptee not been adopted, regardless of whether the person is born
10 before or after the adoptee's adoption is finalized.

11 SECTION 2. IC 31-9-2-121 IS AMENDED TO READ AS
12 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 121. "State registrar",
13 for purposes of IC 31-19-18 through ~~IC 31-19-25~~, **IC 31-19-25.5**,
14 means the person who:

15 (1) is in charge of the division of the state department of health
16 that administers the system of vital records; and

17 (2) has charge of the files and records pertaining to vital records.



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SECTION 3. IC 31-19-9-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. The individual who or agency that arranges for the signing of a consent to adoption shall provide each birth parent whose consent to adoption is obtained under this chapter with the following:

(1) An explanation concerning the:

(A) availability of adoption history information under IC 31-19-17 through ~~IC 31-19-25~~; **IC 31-19-25.5**; and

(B) birth parent's option to file a nonrelease form with the state registrar if the birth parent seeks to restrict the release of identifying information.

(2) A nonrelease form prescribed by the state registrar under IC 31-19-25-4.

SECTION 4. IC 31-19-18-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) The state registrar shall publicize the availability of the adoption history information, including the availability of the information under:

(1) this chapter and IC 31-19-19 through IC 31-19-24; ~~and~~

(2) IC 31-19-25; **and**

(3) IC 31-19-25.5.

(b) The state registrar's publicity efforts must include periodic public service announcements regarding the availability of adoption history information.

SECTION 5. IC 31-19-19-0.5, AS ADDED BY P.L.42-2009, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 0.5. (a) This section does not apply to a confidential intermediary appointed under IC 31-19-24.

(b) Except as provided in subsection (c) or (d), a person that is required to store, maintain, or release adoption records or other adoption information under IC 31-19-12-5, IC 31-19-17, IC 31-19-18, this chapter, or IC 31-19-20 through ~~IC 31-19-25~~ **IC 31-19-25.5** shall store and maintain the adoption records or other adoption information for at least ninety-nine (99) years after the date the adoption was filed. Unless otherwise provided by law, the adoption records or other adoption information may be stored and maintained in an electronic or other format, including microfiche, microfilm, or a digital format.

(c) A person who transfers adoption records or other adoption information to the state registrar or a transferee agency in accordance with IC 31-19-12-5 is not required to comply with the storage or maintenance requirements of subsection (b).

(d) A person, including a court, who obtains custody of or jurisdiction over adoption records or other adoption information

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1 following the dissolution, sale, transfer, closure, relocation, or death of
 2 a person shall transfer the records or other information to the state
 3 registrar or a transferee agency in accordance with IC 31-19-12-5,
 4 unless the person wishes to store and maintain the records in
 5 accordance with subsection (b).

6 SECTION 6. IC 31-19-19-2, AS AMENDED BY P.L.145-2006,
 7 SECTION 254, IS AMENDED TO READ AS FOLLOWS
 8 [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) All files and records
 9 pertaining to the adoption proceedings in:

10 (1) the county office of family and children;

11 (2) the department; or

12 (3) any of the licensed child placing agencies;

13 are confidential and open to inspection only as provided in
 14 IC 31-19-13-2(2), IC 31-19-17, ~~or~~ IC 31-19-25, **or IC 31-19-25.5.**

15 (b) The files and records described in subsection (a), including
 16 investigation records under IC 31-19-8-5 (or IC 31-3-1-4 before its
 17 repeal):

18 (1) are open to the inspection of the court hearing the petition for
 19 adoption; and

20 (2) on order of the court, may be:

21 (A) introduced into evidence; and

22 (B) made a part of the record;

23 in the adoption proceeding.

24 SECTION 7. IC 31-19-19-4, AS AMENDED BY P.L.145-2006,
 25 SECTION 255, IS AMENDED TO READ AS FOLLOWS
 26 [EFFECTIVE JULY 1, 2010]: Sec. 4. All papers, records, and
 27 information pertaining to the adoption, whether part of:

28 (1) the permanent record of the court; or

29 (2) a file in:

30 (A) the division of vital records;

31 (B) the department or county office of family and children;

32 (C) a licensed child placing agency; or

33 (D) a professional health care provider (as defined in
 34 IC 34-6-2-117);

35 are confidential and may be disclosed only in accordance with
 36 IC 31-19-17, this chapter, ~~or~~ IC 31-19-25, **or IC 31-19-25.5.**

37 SECTION 8. IC 31-19-19-5 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) An employer or
 39 any person administering adoption records who recklessly, knowingly,
 40 or intentionally:

41 (1) discloses any confidential information relating to any adoption
 42 except as provided in:

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(A) this chapter or IC 31-19-20 through IC 31-19-24; ~~or~~

(B) IC 31-19-25; or

(C) IC 31-19-25.5; or

(2) allows an employee to disclose any confidential information relating to any adoption except as provided in this chapter; commits a Class A misdemeanor.

(b) If a public employee commits a violation described in subsection (a), the violation is cause for discharge.

SECTION 9. IC 31-19-22-2, AS AMENDED BY P.L.145-2006, SECTION 257, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. **Except as provided in IC 31-19-25.5**, the state registrar, the department, a county office of family and children, a licensed child placing agency, a professional health care provider (as defined in IC 34-6-2-117), and a court shall release identifying information in the entity's possession only if:

(1) the information is requested by a person described in IC 31-19-18-2(a); and

(2) the following persons have submitted a written consent under IC 31-19-21 (or IC 31-3-4-27 before its repeal) to the state registrar that allows the release of identifying information to the person requesting the information:

(A) The adult adoptee.

(B) A birth parent.

SECTION 10. IC 31-19-22-8, AS AMENDED BY P.L.58-2009, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8. An attorney, a licensed child placing agency, or a county office of family and children who contacts an adoptee or a birth parent upon a request under section 7 of this chapter may not disclose identifying information unless the:

(1) adoptee who:

(A) is at least twenty-one (21) years of age gives written consent; or

(B) is less than twenty-one (21) years of age has the written consent of the adoptee's adoptive parents; and

(2) birth parent gives written consent;

to the release of identifying information by the attorney, licensed child placing agency, or county office of family and children. If both the adoptee who is at least twenty-one (21) years of age and the birth parent consent to the release of identifying information but do not provide the consent in writing, the attorney, agency, or county office of family and children may inform the adoptee or the birth parent regarding the fact that an adoptee or a birth parent has consented to the

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1 release of identifying information under IC 31-19-21 (or IC 31-3-4-27
 2 before its repeal). The attorney, licensed child placing agency, or
 3 county office of family and children may inquire as to whether the
 4 adoptee or birth parent, whose consent is still needed before identifying
 5 information may be released, is interested in participating in the
 6 adoption registry under IC 31-19-18 through IC 31-19-21, this chapter,
 7 **and IC 31-19-23 through IC 31-19-24, and IC 31-19-25.5.**

8 SECTION 11. IC 31-19-22-10 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 10. This chapter does
 10 not prohibit an adoptee who is at least twenty-one (21) years of age
 11 from having access to identifying information as provided by
 12 IC 31-19-25 **and IC 31-19-25.5.**

13 SECTION 12. IC 31-19-24-3, AS AMENDED BY P.L.145-2006,
 14 SECTION 259, IS AMENDED TO READ AS FOLLOWS
 15 [EFFECTIVE JULY 1, 2010]: Sec. 3. Whenever the court appoints a
 16 confidential intermediary under section 2(2) of this chapter, the court
 17 shall do the following:

18 (1) Consider:

- 19 (A) the highly emotional and personal issues relating to
- 20 adoption;
- 21 (B) the privacy rights of both birth parents and adoptees;
- 22 (C) the reasons the medical, identifying, or nonidentifying
- 23 information is being sought under section 1 of this chapter;
- 24 and
- 25 (D) any irreparable harm to a birth parent, an adoptee, or both,
- 26 that may arise if appropriate consideration is not given to the
- 27 issues described in clauses (A) through (C).

28 (2) Provide the confidential intermediary with an order
 29 authorizing the confidential intermediary to search certain records
 30 that may include:

- 31 (A) the division of public health statistics;
- 32 (B) the department or county office of family and children;
- 33 (C) any licensed child placing agency; or
- 34 (D) any professional health care provider (as defined in
- 35 IC 34-6-2-117).

36 An order under this subdivision must specify the information to
 37 be sought by the confidential intermediary.

38 (3) Specify the direct contact, if any, that a confidential
 39 intermediary may have with any person from whom the medical,
 40 identifying, or nonidentifying information is being sought, such
 41 as providing that the confidential intermediary may only inform
 42 the person of the existence of the adoption history program

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administered by the state registrar under this chapter, ~~and~~
IC 31-19-25, **and IC 31-19-25.5.**

(4) Specify the limitations, if any, that the court considers
necessary to prevent the confidential intermediary's search under
this chapter from resulting in harm to a birth parent or an adoptee.

(5) Require the confidential intermediary to affirm under oath that
the confidential intermediary agrees to act in good faith and
perform its responsibilities in accordance with sections 2 through
11 of this chapter.

(6) Instruct the confidential intermediary to act as quickly as
possible.

SECTION 13. IC 31-19-25-2, AS AMENDED BY P.L.145-2006,
SECTION 260, IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2010]: Sec. 2. (a) An adoptee who is at least
twenty-one (21) years of age may request identifying information by
submitting a written request to the state registrar.

(b) Except as provided in sections 3 through ~~10~~ 5 of this chapter
and IC 31-19-25.5, upon a request for the release of identifying
information under subsection (a):

- (1) the state registrar;
- (2) the department;
- (3) a county office of family and children;
- (4) a licensed child placing agency;
- (5) a professional health care provider (as defined in
IC 34-6-2-117);
- (6) the attorney who arranged the adoption; and
- (7) a court;

shall release identifying information in the possession of the registrar,
agency, professional health care provider, or court to an adoptee.

SECTION 14. IC 31-19-25-3, AS AMENDED BY P.L.58-2009,
SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2010]: Sec. 3. (a) **Except as provided in IC 31-19-25.5**, an
adoptee's birth parent may restrict access to identifying information
concerning the birth parent by filing a written nonrelease form with the
state registrar that evidences the birth parent's lack of consent to the
release of identifying information under this section.

(b) **Except as provided in IC 31-19-25.5**, the following persons
may not release any identifying information concerning the birth parent
to the adoptee if a nonrelease form is in effect at the time of the request
for identifying information:

- (1) The state registrar.
- (2) The department.

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(3) A county office of family and children.

(4) A licensed child placing agency.

(5) A professional health care provider.

(6) A court.

(c) The nonrelease form filed under this section:

(1) remains in effect during the period indicated by the person submitting the form;

(2) is renewable; and

(3) may be withdrawn at any time by the person who submitted the form.

(d) The nonrelease form is no longer in effect if the birth parent consents in writing to the release of identifying information and has not withdrawn that consent.

SECTION 15. IC 31-19-25.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:

Chapter 25.5. Requests for Information Concerning Pre-Adoptive Siblings

Sec. 1. An adoptee who is at least twenty-one (21) years of age or a pre-adoptive sibling who is at least twenty-one (21) years of age may submit a written request to the state registrar:

(1) stating an interest in being reunited with any pre-adoptive siblings; and

(2) authorizing the state registrar to release the name and present location of the person submitting the request to any pre-adoptive siblings who make similar inquiries.

Sec. 2. (a) If:

(1) an adoptee who is at least twenty-one (21) years of age; or

(2) a pre-adoptive sibling who is at least twenty-one (21) years of age;

expresses a desire to be reunited with a pre-adoptive sibling under section 1 of this chapter, the state registrar shall determine whether the requesting person's pre-adoptive sibling has made a similar inquiry.

(b) If the pre-adoptive sibling has previously authorized a release of information concerning the pre-adoptive sibling's identity under section 1 of this chapter, the state registrar shall release the pre-adoptive sibling's name and present location to each requesting person.

Sec. 3. (a) If an adoptee who is at least twenty-one (21) years of age or a pre-adoptive sibling who is at least twenty-one (21) years of age submits a written request to be reunited with a pre-adoptive

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sibling under section 1 of this chapter but the pre-adoptive sibling has not made a similar inquiry, the state registrar shall:

- (1) search the sealed adoption records for information concerning the pre-adoptive sibling; and
- (2) if possible, contact and advise the pre-adoptive sibling of the request unless the pre-adoptive sibling is less than twenty-one (21) years of age.

(b) If the state registrar locates a pre-adoptive sibling who is at least twenty-one (21) years of age, the contacted pre-adoptive sibling shall make the final decision as to whether to release the pre-adoptive sibling's name and present location to the requesting person.

(c) If the state registrar locates a pre-adoptive sibling who is less than twenty-one (21) years of age, the state registrar shall contact the:

- (1) pre-adoptive sibling's birth parents if the pre-adoptive sibling has not been adopted; or
- (2) pre-adoptive sibling's adoptive parents if the pre-adoptive sibling has been adopted;

for the final determination regarding release of the pre-adoptive sibling's name and present location to the requesting person.

(d) The state registrar shall notify the requesting person whenever a pre-adoptive sibling has been located, but may not release information about the pre-adoptive sibling's identity or present location without authorization under this section.

(e) If the pre-adoptive sibling is deceased or cannot be identified or located under this section, the state registrar shall notify the requesting party, but may not release any information that would tend to identify the pre-adoptive sibling.

(f) In an attempt to discover the identity and present location of a pre-adoptive sibling, the state registrar shall receive, upon request, any available adoptive information regarding the pre-adoptive sibling's identity or location that is in the possession of any of the following:

- (1) The state division of vital records.
- (2) The county office of family and children.
- (3) A licensed child placing agency.
- (4) A professional health care provider (as defined in IC 34-6-2-117).
- (5) The department.

Sec. 4. (a) The adoptive parents of an adoptee who is less than twenty-one (21) years of age may submit a written request for

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1 information concerning the identity and present location of any
2 pre-adoptive siblings of the adoptee.

3 (b) The state registrar shall release information concerning the
4 name and present location of a pre-adoptive sibling to the adoptive
5 parents if the pre-adoptive sibling submitted a written request
6 authorizing the release of the information under section 1 of this
7 chapter.

8 (c) If a mutual inquiry has not been made under section 1 of this
9 chapter, the state registrar shall do the following:

10 (1) Perform the duties described by section 3 of this chapter.

11 (2) Release information to the adoptive parents only to the
12 extent that information may be released to a requesting
13 person under section 3 of this chapter.

14 Sec. 5. A request or consent submitted under section 1, 3, or 4 of
15 this chapter may be withdrawn in a signed writing.

16 Sec. 6. The state registrar shall provide for the storage and
17 indexing of requests under this chapter.

18 Sec. 7. The state registrar may contact a person who submits a
19 request form that is incorrectly or incompletely executed to inform
20 the person regarding the error in the execution of the form.

21 Sec. 8. The following persons may charge a reasonable fee for
22 actual expenses incurred in complying with this chapter:

23 (1) A licensed child placing agency.

24 (2) The court.

25 (3) The department.

26 (4) A county office of family and children.

27 (5) A professional health care provider.

28 (6) The state department of health.

29 Sec. 9. The state registrar:

30 (1) may adopt rules under IC 4-22-2; and

31 (2) shall prescribe any forms necessary;

32 to implement this chapter.

33 SECTION 16. THE FOLLOWING ARE REPEALED [EFFECTIVE
34 JULY 1, 2010]: IC 31-19-25-6; IC 31-19-25-7; IC 31-19-25-8;
35 IC 31-19-25-9; IC 31-19-25-10.

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